

MINUTES OF THE
ARIZONA BOARD OF TECHNICAL REGISTRATION

August 24, 2010

9:30 AM

OPEN SESSION

1. **CALL TO ORDER** – The meeting of the Board of Technical Registration was called to order at 9:30 AM by Chair Karen Cesare.
2. **ROLL CALL** - Board Members in Attendance: Karen Cesare, Harold “Hal” Epperson, Susan Schaefer Kliman, David Komm, Claudia Perchinelli, Howell “Chip” Shay, Erick Weiland, John Willett and Laurie Woodall. Board Staff: Ronald Dalrymple, Melissa Cornelius, LaVern Douglas, Kathryn Fuller, Lisa Vardian, Manuel Maltos, and Cassie Goodwin. Assistant Attorney General: Mona Baskin.
3. **CALL TO THE PUBLIC** – Michael Fondren, RLS #35113 addressed the Board regarding land surveying disciplinary concerns.
4. **MINUTES**
 - A. Adopt the July 27, 2010 Minutes – Dr. Schaefer Kliman moved to adopt the July 24, 2010 minutes. Mr. Shay seconded. Motion Carried. Misterys Komm and Weiland abstained.
5. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

 - A. Proposed Letters of Concern
 1. M10-068, Arvel R. James, Land Surveyor #13179 – Mr. Epperson moved to issue Respondent a Letter of Concern regarding attaching his RLS number to monuments and recording his survey in the appropriate county recorder’s office in the required timeframe. Mr. Komm seconded. After discussion, Motion Carried.
 2. M10-094, Jon Timothy Rice, Land Surveyor #31020 – Mr. Epperson moved to issue Respondent a Letter of Concern regarding recording his survey in the appropriate county recorder’s office in the required timeframe. Ms. Perchinelli seconded. After discussion, Motion Carried.

3. M10-096, G. Bryan Goetzenberger, Land Surveyor #31020 – Mr. Epperson moved to issue Respondent a Letter of Concern regarding recording his surveys in the appropriate county recorder's office in the required timeframe. Mr. Komm seconded. After discussion, Motion Carried.

4. M10-097, Joseph R. Hughes, Land Surveyor #35835 – Mr. Epperson moved to issue Respondent a Letter of Concern regarding recording his surveys in the appropriate county recorder's office in the required timeframe. Ms. Woodall seconded. After discussion, Motion Carried.

5. M10-099, Scott Alan Warren, Land Surveyor #31610 – Mr. Epperson moved to issue Respondent a Letter of Concern regarding recording his surveys in the appropriate county recorder's office in the required timeframe. Ms. Perchinelli seconded. After discussion, Motion Carried.

6. M10-103, Richard T. Waage, Land Surveyor #39954 – Mr. Waage addressed the Board. Mr. Epperson moved to issue Respondent a Letter of Concern regarding recording his surveys in the appropriate county recorder's office in the required timeframe. Ms. Woodall seconded. After discussion, Motion Carried.

After discussion, the Board did not believe it was a violation of the Arizona Boundary Survey Minimum Standards paragraph (7) for a land surveyor to file a complaint with the Board before making any attempt to contact another land surveyor regarding a failure to record a survey.

B. Proposed Consent Agreements

1. M08-024, Delbert Andrew Rapier, P.E. (Civil) #35917 – Mr. Rapier was present to address the board. Mr. Shay moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$470.00. Ms. Perchinelli seconded. After discussion, Motion Carried.

2. M10-029, Faithful + Gould, Inc. – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$2,000.00 and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$55.00. Mr. Shay seconded. After discussion, Motion Carried.

C. Review and Discussion

1. M08-023, Sunilkumar C. Shah, P.E. (Civil) #41720 – Dr. Schaefer Kliman moved to direct Staff to obtain a signed Consent Agreement for a Letter of Reprimand and the Cost of Investigation. If no signed Consent Agreement can be obtained within 30 days, this case will be referred for a formal hearing. Mr. Epperson seconded. After discussion, Motion Carried. Ayes: Perchinelli, Schaefer Kliman, Weiland, Epperson, Cesare, Shay, Willett; Komm; Nay: Woodall.

2. M10-012, Will Architects, Jeffrey S. Will, Architect #11038 – Mr. Epperson moved to issue Respondent a Letter of Concern that he pay the collaborating professional within the required timeframe. Mr. Komm seconded. After discussion, Motion Carried.

D. Proposed Peer Review Candidate

1. Keith L. Drunasky II, P.E. (Civil) #49794 – Mr. Komm moved to accept Mr. Drunasky's application to be an Enforcement Advisory Committee member. Ms. Perchinelli seconded. After discussion, Motion Carried.

6. HOME INSPECTOR ENFORCEMENT MATTERS

Review, Consideration, and Possible Vote on the following:

A. Proposed Letters of Concern

1. M05-266, Ronald C. Fillet, CHI #38567 – Mr. Shay moved to issue Respondent a Letter of Concern regarding reporting deficiencies. Ms. Woodall seconded. After discussion, Motion Carried.

2. M05-403, Ronald C. Fillet, CHI #38567 – Mr. Shay moved to issue Respondent a Letter of Concern regarding reporting deficiencies. Mr. Willett seconded. After discussion, Motion Carried.

B. Proposed Consent Agreements

1. HI09-020, Ronald C. Fillet, CHI #38567 – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$1,500.00; Respondent's home inspector certificate will be placed on probation until the following issues are met: Restitution: Respondent shall pay restitution in the amount of \$240.00 to Gail Fallis; Professional Peer Review: Respondent shall submit for review the next three (3) home inspection reports done within 90 days of the effective date of the Consent Agreement; Open Book Test: Respondent shall take and successfully complete (with a passing score of 100%) an open book test on the Board's statutes and rules within 30 days of the effective date of this Consent Agreement; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$165.00. Mr. Shay seconded. After discussion, Motion Carried.

2. HI10-003, Thomas L. Culpepper, CHI #39422 – Mr. Shay moved to accept the Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$1,500.00; Respondent's home inspector certificate will be placed on probation until the following issues are met: Restitution: Respondent shall pay restitution in the amount of \$250.00 to Susan Taylor; Open Book Test: Respondent shall take and successfully complete (with a passing score of 100%) an open book test on the Board's statutes and rules within 30 days of the effective date of this Consent Agreement; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$165.00. Mr. Komm seconded. After discussion, Motion Carried.

3. HI10-008, Larry M. Abell, CHI #40408 – Mr. Komm moved to accept the Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$1,500.00; Respondent's home inspector certificate will be placed on probation until the following issues are met: Restitution: Respondent shall pay restitution in the amount of \$275.00 to Karoline and Claude Self; Open Book Test: Respondent shall take and successfully complete (with a passing score of 100%) an open book test on the Board's statutes and rules within 30 days of the effective date of this Consent Agreement; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$131.00. Mr. Shay seconded. After discussion, Motion Carried.

4. HI10-030, Bradley W. Isaly, Nonregistrant – Dr. Schaefer Kliman moved to direct Staff to attempt to obtain a signed Consent Agreement from Respondent for an Assurance of Discontinuance from offering, advertizing and the practice of home inspections until he has been granted certification from the Board; Civil Penalty in the amount of \$4,000.00; and Cost of Investigation. Mr. Weiland seconded. After discussion, Motion Carried.

7. DRUG LABORATORY ENFORCEMENT MATTERS

Review, Consideration, and Possible Vote on the following:

There were no Drug Laboratory Enforcement Matters before the Board.

8. LICENSING MATTERS

Review, Consideration, and Possible Vote on the following:

1. Poe, Brenan, EIT Application #100080 – Mr. Komm moved to approve Mr. Brenan's application and grant him Engineer-in-Training designation. Ms. Woodall seconded. After discussion, Motion Carried.

2. Miller, Kevin, Geologist Application #100351 – Mr. Miller appeared to address the Board. Mr. Weiland moved to approve Mr. Miller's application and grant him registration. Mr. Komm seconded. After discussion, Motion Carried.

3. Johnson, Curtlin, Civil Engineering Application #100005 – Mr. Willett moved to deny Mr. Johnson's request for a waiver of taking the Fundamentals of Engineering Examination. Mr. Komm seconded. After discussion, Motion Carried.

4. Lind, David, Architect Applicant #100530 – Ms. Woodall moved to reopen application number 100530 and rescind the July vote granting Mr. Lind Architect registration. Mr. Epperson seconded. After discussion, Motion Carried.

Ms. Woodall moved to authorize Mr. Lind to take the ARE and, upon successful completion of the examination, grant him registration in Arizona. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

5. Shabin, Nazina, Architect Applicant #040873 – Dr. Schaefer Kliman moved to grant Ms. Shabin's request for an extension to finish the ARE. Ms. Perchinelli seconded. After discussion, Motion Carried.

6. Johnson, Kyle, EIT Application #100115 – Mr. Willett moved to approve Mr. Johnson's application and grant him Engineer-in-Training designation. Mr. Komm seconded. After discussion, Motion Carried.

7. Thornbrue, Michael, Civil Engineering Application #091053 – Mr. Willett moved to reopen application number 091053 and rescind the July vote to grant Mr. Thornbrue Professional Engineer (Civil) registration. Ms. Perchinelli seconded. After discussion, Motion Carried.

Mr. Willett moved to authorize Mr. Thornbrue to take the PE and upon successful completion of the examination and Board receipt of his required citizenship paperwork, grant him P.E. (Civil) registration in Arizona. Mr. Shay seconded. Motion Carried.

8. Castin, Jonathan, EIT Application #100089 – Mr. Shay moved to approve Mr. Castin's application and grant him Engineer-in-Training designation. Ms. Woodall seconded. After discussion, Motion Carried.

9. Moulis, Dean, Civil Engineering Application #100792 -- Ms. Perchinelli moved to open the mechanical engineer registration number 51154, rescind the previous vote to grant it and reissue registration number 51154 to Mr. Moulis as a civil engineer registration. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

10. Manning, Robert, Civil Engineering Application #100704 – Mr. Manning appeared and addressed the Board. Ms. Woodall moved to approve Mr. Manning's application and grant him Arizona registration. Mr. Epperson seconded. After discussion, Motion Carried.

11. O'Day, Patrick, Land Surveyor Application #100370 – Mr. Epperson moved to deny Mr. O'Day's request for a waiver of the required FLS and PLS examinations and approve him to sit for the FLS, PLS and Arizona specific examinations and, upon successful passing, grant him registration. Ms. Perchinelli seconded. After discussion, Motion Carried. Aye: Cesare, Epperson, Schaefer Kliman, Woodall, Komm, and Willett. Nay: Perchinelli, and Weiland, and Shay.

9. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on the Evaluation Committee and Staff Recommendations for the following (Lists of names available at the Board's office for public review):

1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. §§ 32-122.01, 32-123;

2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122;
3. Granting professional registrations to those applicants possessing NCARB Blue Cover or NCEES Model Law Engineer certifications, pursuant to A.R.S. § 32-122.01, and § 32-123;
4. Administratively closing professional or in-training applications pursuant to A.R.S. §§ 32-122, 32-122.01(A); A.A.C. R4-30-204(E).

Mr. Epperson moved that, under 9(A)(1), Kirstin Girdner, Application #100721 be moved from Geologist Designation to P.E. (Geological) designation and the applicants listed in 9(A)(1) be granted professional registration, certification, or in-training designation; that the applicants listed in 9(A)(2) be approved to sit for the professional or in-training examinations, and be granted registration in the appropriate category upon successful completion of the exams and a staff determination of continued eligibility; that the applicants listed in 9(A)(3) be granted professional registration; and that the application files listed in 9(A)(4), with the exception of Andrew Gorski, Landscape Architect Application #091431 which was tabled, be administratively closed based upon the applicants' failure to meet the Board's licensing requirements. Mr. Willett seconded. Motion Carried.

10. POLICY MATTERS

Review, Consideration, and Possible Vote on the following:

1. Clarification from the Board regarding what constitutes a "school approved by the Board," as found in A.R.S. § 32-122(A)(2).

Dr. Schaefer Kliman moved that for the professional engineering application waivers the Board approved schools would be ABET approved. Mr. Epperson seconded. After discussion, Motion Failed. Aye: Epperson, Schaefer Kliman, and Shay; Nay: Perchinelli, Cesare, Weiland, Woodall, Komm, and Willett.

This item was tabled for Staff to bring additional information to better clarify the pros and cons of the issue.

2. Review and discussion regarding A.A.C. R4-30-204(J) which requires applicants for architect registration to pass all divisions of the ARE within five years of first taking any division, in contrast with NCARB's "rolling clock."

Assistance Attorney General Baskin advised the Board that the mandatory language of A.A.C. R4-30-204(J) did not provide for an extraordinary circumstance exception.

Dr. Schaefer Kliman moved that all extension requests are reviewed on a case-by-case basis. Mr. Shay seconded. After discussion, Motion Carried. Ms. Woodall voted Nay.

11. Review, Consideration, and Possible Vote on the following:

- A. Certifications that have been expired for 1 year and recommended to be lapsed:
(List of names available at the Board's office for public review.)

Mr. Epperson moved, with the exception of Denny Heidel, CHI # 39569, to lapse the registrations listed in 11.A. Dr. Schaefer Kliman seconded. Motion Carried.

12. DIRECTOR'S REPORT – Mr. Dalrymple advised:

Finances:

As of June 30, 2010, the Board's revenue for Fiscal Year 2010 totaled \$1,794,354 and the expenditures total \$1,511,002. The Board's revenue for FY10 exceeded expenditures by approximately \$283,000.

Computer System:

The Board continues to meet with representative from the Government Information Technology Agency ("GITA"), NIC and CAVU in an attempt to replace the AS/400 system with a modern licensing system. We presented a project justification document to the Governor's office in an attempt to convince the Office of Strategic Planning and Budgeting ("OSPB") to allow us to encumber excess funds before the end of the fiscal year for the project from the FY10's revenues. The request was denied on the grounds the service would not be rendered by the end of June. We have subsequently applied for a supplement to the 2011 budget to allow us to use the leftover funds from FY10 to offset some of the funds needed for the replacement system. According to GITA's estimate, the cost of the system for development and operation thru FY12 will be approximately \$446,000.

As of March 2010, the Arizona Department of Administration is billing the Board for all expenses associated with the AS/400 since the Board is the only agency on the system. The normal billing will be approximately \$72,000 annually, however, the Board will also be held responsible for any additional programming and repair costs associated with the system.

At a meeting called by DOA and OSPB office this month, we were informed that DOA could not guarantee that the last AS/400 programmer familiar with the Board's database program would be around much longer and that it is the Board's responsibility to fund another DOA programmer to shadow him in order to keep the system operational if he should leave and the program needs equipment or programming repair. The cost of the "shadow" will be approximately \$100,000 annually. Equipment repairs will be an additional cost.

GITA and OSPB have decided we need to bring in a consultant to go over all of our business operations relating to licensing and enforcement to avoid the same type of problems encountered by the Registrar of Contractor's replacement computer system team that resulted in a two and a half year implementation delay. They believe this action will reduce the estimated development cost of the new system.

13. BOARD CHAIR'S REPORT – Ms. Cesare advised there is nothing new to report.

14. STANDING COMMITTEE REPORT

A. Legislation and Rules Committee (“L&R”) – Dr. Schaefer Kliman advised the Committee is meeting after the Board meeting ends and she will have a report at the September Board meeting.

B. Budget Committee – Nothing new to report.

C. Home Inspector Rules and Standards Committee (“HIRS”) – Mr. Shay advised the Committee met August 4, 2010, and the following is a summary of the meeting: There is concern about the aggressive sales practices of one of the national security firms using home inspector to get referrals by having them advertise free security system inspections as part of their service. This appears to be a conflict with A.A.C. R4-30-301.01(B)(1) and will be reviewed until a Substantive Policy can be formulated.; Discussions were held over when to revise the Checklist Supplement & Industry Practice and agreement was made to be done annually, approved at the September meeting and to be posted in October on the Board's web site; There was to be a review of the issue of Home Energy Auditing Building Performance Institute Technical Standards, however, the representative did not show at the meeting so this item will be discussed at a future meeting; The Agenda will be revised to provide more accurate description of discussion topics; and the Committee will be reviewing how to implement the 2010 Pool & Spa Inspection Bill at the September meeting.

D. Environmental Remediation Rules and Standards Committee (“ERRS”) – Ms. Vardian advised the ERRS Committee reviewed the proposed rule changes to the Drug Laboratory Remediation Best Standards and Practices and submitted a request to the Governor's office for an exception to the current moratorium on rule filings. Ms. Cornelius advised no response to the request has been received as of yet.

15. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. National Council of Examiners for Engineering and Surveying (“NCEES”) – Ms. Perchinelli advised she and Mr. Willett attended the recent meeting in Denver, Colorado August 18 – 21, 2010. The new Structural Examination will be given in April 2011. It is a 16-hour exam and both parts, I and II, must be passed within 5-years or each other in order to obtain credit for licensure. It is recommended that applicants not take the exam without practical experience. NCEES is paying for another delegate as a first time Board member with 18-months or less time on the Board. She has been given the project to pick the next location for the western zone conference.

Mr. Willett advised NCEES is looking at changes to the Model Law: requiring 150 hours to obtain an engineering BS degree; needing six years of mathematics to graduate; and studying allowing PhD's to be licensed without examination. He has been asked, and agreed, to serve on the Civil Engineering Task Commission in writing exam questions.

- B. National Council of Architectural Registration Boards ("NCARB") – Dr. Schaefer Kliman advised she will be attending an Intern Development Program Committee meeting in Seattle next month and will provide a report at the Board's September meeting.
- C. Council of Landscape Architectural Registration Boards ("CLARB") – Ms. Cesare advised she will be attending the annual meeting in Baltimore, Maryland next month and will provide a report at the Board's September meeting.
- D. National Association of State Boards of Geology ("ASBOG") – Nothing new to report.
- E. Public Member News/Information – Nothing new to report.

16. **FUTURE BOARD MEETINGS** – Tuesday, September 28, 2010 at 9:30 AM.

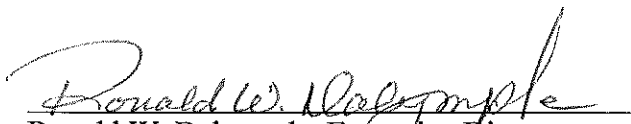
17. **FUTURE AGENDA ITEMS**

Clarification from the Board regarding what constitutes a "school approved by the Board," as found in A.R.S. § 32-122(A)(2).

18. **ADJOURNMENT** – Meeting adjourned at 12:36 PM.

ARIZONA STATE BOARD OF TECHNICAL REGISTRATION


Karen M. Cesare, Chair


Ronald W. Dalrymple, Executive Director